

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

**IN RE: JOHNSON & JOHNSON TALCUM POWDER
 PRODUCTS MARKETING, SALES PRACTICES
 AND PRODUCTS LIABILITY LITIGATION**

MDL No. 2738

TRANSFER ORDER

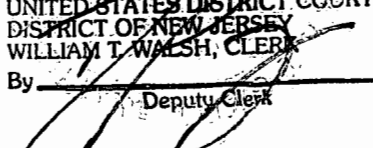
Before the Panel:* Plaintiffs in the three actions listed on Schedule A move under Panel Rule 7.1 to vacate our orders that conditionally transferred the actions to the District of New Jersey for inclusion in MDL No. 2738. Defendants PTI Union, LLC, and PTI Royston, LLC (the PTI Defendants), oppose the motions in all three actions. Defendants Johnson & Johnson, Johnson & Johnson Consumer, Inc., and Imerys Talc America, Inc., oppose the motions pertaining to the Eastern District of Missouri *Barsh* and *Hittler* actions.

In support of their motions to vacate, plaintiffs in all three actions argue that federal subject matter jurisdiction over their actions is lacking, and that plaintiffs' motions for remand to state court are pending. The Panel has held that such jurisdictional issues generally do not present an impediment to transfer.¹ See, e.g., *In re Prudential Ins. Co. of Am. Sales Practices Litig.*, 170 F. Supp. 2d 1346, 1347-48 (J.P.M.L. 2001). Plaintiffs can present their remand arguments to the transferee judge.

Plaintiffs in the *Barsh* and *Hinton* actions also argue that transfer of those actions is not appropriate because plaintiffs assert claims against unique defendants—namely, Schnuck Markets, Inc., and the PTI Defendants. Plaintiffs' arguments are not persuasive. Transfer under Section 1407 does not require a complete identity of factual issues or parties when the actions arise from a common factual core. See *In re 100% Grated Parmesan Cheese Mktg. & Sales Practices Litig.*, 201 F. Supp. 3d 1375, 1378 (J.P.M.L. 2016). Plaintiffs' claims, like those of plaintiffs in the MDL, arise from a common factual core—that plaintiffs allegedly developed ovarian cancer following perineal application of Johnson & Johnson's talcum powder products. Accordingly, transfer is appropriate. Moreover, we have transferred numerous actions involving claims against retailers and other

* Judge Nathaniel M. Gorton took no part in the decision of this matter. Additionally, one or more Panel members who could be members of the putative classes in this docket have renounced their participation in these classes and have participated in the decision.

¹ Panel Rule 2.1(d) expressly provides that the pendency of a conditional transfer order does not limit the pretrial jurisdiction of the court in which the subject action is pending. Between the date a remand motion is filed and the date that transfer of the action to the MDL is finalized, a court generally has adequate time to rule on a remand motion if it chooses to do so.

I HEREBY CERTIFY that the above and foregoing is a true and correct copy of the original on file in my office.
 UNITED STATES DISTRICT COURT
 DISTRICT OF NEW JERSEY
 WILLIAM T. WALSH, CLERK
 By  Deputy Clerk

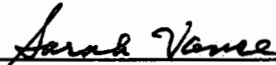
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defendants to the MDL, including several actions involving claims against the PTI Defendants. *See, e.g.,* Transfer Order at 1-2, *In re Johnson & Johnson Talcum Powder Prods. Mktg., Sales Practices & Prods. Liab. Litig.*, MDL No. 2738 (J.P.M.L. Oct. 3, 2018), ECF No. 1422 (transferring action from the Eastern District of Missouri asserting claims against the PTI Defendants).

Therefore, after considering the argument of counsel, we find that the actions listed on Schedule A involve common questions of fact with the actions transferred to MDL No. 2738, and that transfer under 28 U.S.C. § 1407 will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation. In our order centralizing this litigation, we held that the District of New Jersey was an appropriate Section 1407 forum for actions sharing factual questions arising from allegations that plaintiffs or their decedents developed ovarian or other gynecological cancer following perineal application of Johnson & Johnson's talcum powder products (namely, Johnson's Baby Powder and Shower to Shower body powder). *See In re Johnson & Johnson Talcum Powder Prods. Mktg., Sales Practices & Prods. Liab. Litig.*, 220 F. Supp. 3d 1356, 1357 (J.P.M.L. 2016). The actions listed on Schedule A share multiple factual issues with those already in the MDL.

IT IS THEREFORE ORDERED that the actions listed on Schedule A are transferred to the District of New Jersey and, with the consent of that court, assigned to the Honorable Freda L. Wolfson for coordinated or consolidated pretrial proceedings.

PANEL ON MULTIDISTRICT LITIGATION



Sarah S. Vance
Chair

Lewis A. Kaplan
R. David Proctor
Karen K. Caldwell

Ellen Segal Huvelle
Catherine D. Perry

**IN RE: JOHNSON & JOHNSON TALCUM POWDER
PRODUCTS MARKETING, SALES PRACTICES
AND PRODUCTS LIABILITY LITIGATION**

MDL No. 2738

SCHEDULE A

Eastern District of Missouri

BARSH, ET AL. v. JOHNSON & JOHNSON, ET AL., C.A. No. 4:18-01464
HITTLER, ET AL. v. JOHNSON & JOHNSON, INC., ET AL., C.A. No. 4:18-01474
HINTON v. PTI UNION, LLC, ET AL., C.A. No. 4:18-01602